

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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TYRONE MASSEY,	:	
	:	
Plaintiff,	:	20-CV-9719 (AJN) (OTW)
	:	
-against-	:	<u>ORDER</u>
	:	
CAPTAIN SMART; CITY OF NEW	:	
YORK,	:	
	:	
Defendants.	:	
	:	
-----X		

ONA T. WANG, United States Magistrate Judge:

Plaintiff, currently incarcerated at Manhattan Detention Complex (“MDC”), brings this *pro se* action under 42 U.S.C. § 1983, alleging deliberate indifference to his medical needs. By order dated December 2, 2020, the Court granted Plaintiff’s request to proceed without prepayment of fees, that is, *in forma pauperis*. (ECF 5).¹ On December 4, 2020, the Court requested that Defendants, the City of New York (the “City”) and Captain Smart, waive service of summons. (ECF 6). The City waived service on January 4, 2021. (ECF 12). However, on December 30, 2020, the New York City Department of Correction filed an unexecuted waiver of service for Captain Smart. On February 22, 2021, the City requested an adjournment of the Initial Pretrial Conference scheduled for February 24, 2021. (ECF 13).

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed *in forma pauperis*. See 28 U.S.C. § 1915(b)(1).

DISCUSSION

Under *Valentin v. Dinkins*, a *pro se* litigant is entitled to assistance from the district court in identifying a defendant. 121 F.3d 72, 76 (2d Cir. 1997). In the complaint, Plaintiff may supply sufficient information to permit the New York City Department of Correction to identify Captain Smart, who is alleged to be a female New York City Department of Correction Captain assigned to the Manhattan Detention Complex 9 South unit on October 29, 2020, during the 11:00 p.m. to 7:00 a.m. tour of duty. (ECF 2 at 4). It is therefore ordered that the New York City Law Department, which is the attorney for and agent of the New York City Department of Correction, must ascertain the identity and badge number of Captain Smart and the address where the defendant may be served.² The New York City Law Department must provide this information to Plaintiff and the Court within **sixty days** of the date of this order. If the New York City Law Department cannot identify Captain Smart, it must specify what additional information is needed from Plaintiff.

The Initial Pretrial Conference scheduled for Wednesday, February 24, 2021 is **adjourned sine die**.

CONCLUSION

The Clerk of Court is directed to mail a copy of this order and the complaint to the New York City Law Department at: 100 Church Street, New York, NY 10007. The Clerk of Court is also

² If the Doe defendant is a current or former DOC employee or official, the New York City Law Department should note in the response to this order that an electronic request for a waiver of service can be made under the e-service agreement for cases involving DOC defendants, rather than by personal service at a DOC facility. If the Doe defendant is not a current or former DOC employee or official, but otherwise works or worked at a DOC facility, the New York City Law Department must provide a residential address where the individual may be served.

directed to mail a copy of this order to *pro se* Plaintiff. The Clerk of Court is further requested to close ECF 13.

SO ORDERED.

Dated: February 22, 2021
New York, New York

s/ Ona T. Wang
Ona T. Wang
United States Magistrate Judge